B8

32. (Amended) The conduit of claim 29, wherein the stent includes a coating over the covering on the inner surface portion of the stent.

B9

35. (Twice Amended) The conduit of claim 29, wherein the covering includes expandable polytetrafluoroethylene that covers substantially all of an inner surface and an outer surface of the stent, and the stent includes a heparin-based coating over the covering on the inner surface of the stent.

REMARKS

In response to the final Office Action of March 25, 2003, Applicants are filing herewith a Terminal Disclaimer. Applicants submit that the Terminal Disclaimer obviates the obviousness-type double patenting rejection set forth in the final Office Action. Applicants are submitting the Terminal Disclaimer in order to expedite prosecution of this application. Accordingly, the submission of the Terminal Disclaimer in no way manifests an admission by Applicants as to the propriety of the double patenting rejection set forth in the final Office Action. Nor do Applicants subscribe to the various characterizations and assertions regarding Applicants' claims and the cited references set forth in that double patenting rejection. *See* M.P.E.P. §804.02 *citing Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991) ("In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection.") Should the need arise at a later date, Applicants reserve the right to present arguments regarding the merits of the double patenting rejection and the nonobviousness of applications

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claims 29-35 over patent claims 1 and 2 of U.S. Patent No. 6,290,728 in view of U.S. Patent No. 5,123,917.

Applicants also propose amending independent claims 1, 16, 17, and 29 in order to obviate the claim rejections based on U.S. Patent No. 6,406,488 to Tweden et al. ("Tweden"). More specifically, each of claims 1, 16, and 17 has been amended to recite, among other things, "a substantially straight stent" that includes "a flared end [that] seats around an end of the passage." Independent claim 29 has been amended to include a similar recitation.

Referring to Fig. 1, Tweden discloses a conduit 10 in the form of an L-shaped tube. The conduit 10 has a coronary portion 12 and a myocardial portion 14 which extends at a right angle to the coronary portion 12. The coronary portion 12 is received in the lumen 80 of a coronary artery 82 and the myocardial portion 14 extends from the coronary artery 82 through the myocardium 84 to the left ventricle 83. Tweden further discloses a transition portion 13 which joins the myocardial and coronary portions 12, 14.

Thus, Tweden fails to disclose or otherwise suggest "a substantially straight stent" that includes "a flared end," as recited in independent claims 1, 16, 17, and 29. For at least this reason, claims 1, 16, 17, and 29, and dependent claims 3-8, 10-15, 18-22, 24-28, and 30-35, are patentably distinguishable from Tweden.

Although claims 3-8, 10-15, 18-22, 24-28, and 30-35 depend either directly or indirectly from independent claims 1, 17, and 29, respectively, and are therefore allowable for at least the same reasons as claims 1, 17, and 29 are allowable, each of

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the dependent claims also are separately patentable since each recites unique combinations that are neither taught nor suggested by the cited art.

Regarding the rejection of claim 15 under 35 U.S.C. § 112, second paragraph, the antecedent basis for the phrase "wherein delivering the stent includes . . ." in claim 15 was included in originally-filed claim 1. However, in the Amendment filed January 8, 2003, the recitation containing the antecedent basis for claim 15 was inadvertently omitted from amended claim 1. By this Amendment, therefore, Applicants propose to amend claim 1 to include that inadvertently omitted recitation. Applicants submit that in light of the amendment to claim 1, the Section 112 rejection should be withdrawn.

Applicants also have made minor amendments to dependent claims 4, 5, 8, 10, 24, 31, 32, and 35 to either change their dependencies and/or make the claim language consistent with that used in the independent claims.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1 and 3-8, 10-22, and 24-35 in condition for allowance. Applicants submit that the proposed amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final Office Action presented some new arguments as to the application of the art against the pending claims. It is respectfully submitted that the entering of the Amendment would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

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Finally, Applicants submit that the entry of this Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

Applicants request the entry of this Amendment, the withdrawal of the outstanding claim rejections, and the timely allowance of claims 1 and 3-8, 10-22, and 24-35.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

In accordance with the provisions of 37 C.F.R. § 1.121(c)(1)(ii), an Appendix is attached hereto showing the changes to the claims as a result of this Amendment. Additions are shown by underlined text and deletions are shown by bracketed text.

Please grant any extensions of time required to enter this Amendment After Final and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: June 24, 2003

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APPENDIX

This Appendix is being filed in accordance with the provisions of 37 C.F.R. §1.121(c)(1)(ii) to show the changes to the claims as a result of the Amendment filed herewith. Additions are shown in underlined text and deletions are shown in bracketed text. This Appendix is not intended to be part of the application.

1. (Twice Amended) A method of providing blood flow directly from a heart chamber to a coronary vessel, comprising:

providing a substantially straight stent that includes a configuration having sufficient radial strength to resist deformation from contractile forces experienced during a cardiac cycle and sufficient flexibility in a compressed state and a deployed state to permit passage to a myocardial site and remain patent when implanted in the site, wherein the stent includes a flared end and a covering on an inner surface portion and an outer surface portion of the stent; [and]

delivering the stent in the compressed state into a passage at the myocardial site; and

expanding the stent to deploy the stent in the passage such that the flared end seats around an end of the passage.

4. (Amended) The method of claim [2] 1, wherein the covering covers substantially all of an [inside] inner surface and an [outside] outer surface of the stent.

5. (Amended) The method of claim [2] 1, wherein the stent includes a coating over the covering on the inner [an inside] surface portion of the stent.

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8. (Twice Amended) The method of claim 1, wherein the stent includes a covering having expandable polytetrafluoroethylene that covers substantially all of an [inside] inner surface and an [outside] outer surface of the stent and the stent includes a heparin-based coating over the covering on the [inside] inner surface of the stent.

10. (Amended) The method of claim [9] 1, wherein the flared end is placed in the passage to face the coronary vessel.

16. (Twice Amended) A method of providing blood flow directly from a left ventricle to a coronary artery, comprising:

providing a substantially straight stent that includes a configuration having sufficient radial strength to resist deformation from contractile forces experienced during a cardiac cycle and sufficient flexibility in a compressed state and a deployed state to permit passage to a myocardial site distal to a coronary blockage and remain patent when implanted in the site, wherein the stent includes a flared end and a covering having expandable polytetrafluoroethylene that covers substantially all of an inside surface and an outside surface of the stent, and the stent includes an antithrombogenic coating over the covering on the inside surface of the stent;

delivering the stent percutaneously in the compressed state into a passage at the myocardial site such that the flared end seats around an end of the passage; and

expanding the stent to deploy the stent in the passage.

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17. (Twice Amended) A method of providing blood flow directly from a heart chamber to a coronary vessel, comprising:

providing a substantially straight stent that includes a flared end and has a configuration having sufficient radial strength to resist deformation from contractile forces experienced during a cardiac cycle and sufficient flexibility in a compressed state and a deployed state to permit passage to a myocardial site and remain patent when implanted in the site;

applying a covering to the stent;

applying a coating over the covering on an inside surface of the stent; and

delivering the stent into a passage at the myocardial site such that the flared end seats around an end of the passage.

24. (Amended) The method of claim [23] 17, wherein the flared end is placed in the passage to face the coronary vessel.

29. (Twice Amended) A conduit for providing blood flow directly from a heart chamber to a coronary vessel, comprising:

a substantially straight stent that includes a flared end and a configuration having sufficient radial strength to resist deformation from contractile forces experienced during a cardiac cycle and sufficient flexibility in a compressed state and a deployed state to permit passage to a myocardial site and remain patent when implanted in the site, and

a covering on an inner surface portion and outer surface portion of the stent,

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wherein the flared end is configured to seat around an end of a passage at the myocardial site.

31. (Amended) The conduit of claim 29, wherein the covering covers substantially all of an [inside] inner surface and an [outside] outer surface of the stent.

32. (Amended) The conduit of claim 29, wherein the stent includes a coating over the covering on [an inside] the inner surface portion of the stent.

35. (Amended) The conduit of claim 29, wherein the covering includes expandable polytetrafluoroethylene that covers substantially all of an [inside] inner surface and an [outside] outer surface of the stent, and the stent includes a heparin-based coating over the covering on [an inside] the inner surface of the stent.

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